

(b) a lumen which provides access to the interior of the inflatable balloon for inflating the inflatable balloon with a fluid.

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cont.

44. (New) The apparatus of claim 43 wherein the balloon when deflated has margins which are gathered toward the center of the balloon.

45. (New) The apparatus of claim 44 wherein a portion of the balloon when deflated is inverted into another portion of itself to reduce the length of the balloon.

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#### REMARKS

In the Official Action, claims 1, 4-6, 8-10, 12-16, 20, 21, 23-26, 30, 31, 37 and 39 stand rejected under 35 § 102(b) as being anticipated by Kieturakis (U.S. Patent No. 5,569,183). According to the Official Action, Kieturakis discloses a cannula, an inflatable balloon that appears to taper gently, a lumen and a coupling structure.

However, the disclosure of Kieturakis does not teach every aspect as recited in independent claims 1, 21, 23, or 37. Claims 1 and 21 define an apparatus for dissecting tissue having a balloon "wherein the balloon has a distal portion and a proximal portion, where the diameter, volume or perimeter of the balloon when inflated generally decreases from the proximal portion towards the distal portion of the balloon." Similarly, claim 37 recites "the balloon having a distal portion and a proximal portion where the diameter of the balloon when inflated generally decreases from the proximal portion towards the distal portion of the balloon." Finally, the first recited step of method claim 23 includes a device "where the diameter, volume or perimeter of the balloon when inflated generally decreases from the proximal portion towards the distal portion of the balloon." Kieturakis, especially FIG. 4 relied upon in the Official Action, relates a balloon having a specified shape. In the specification at Column 5, lines 1-7, it states:

The sheet 123 is formed into a balloon that when inflated is shaped like a "hot dog bun" (a rounded shape mostly but not completely surrounding a cylinder) with a central longitudinal "hot dog" shaped (cylindrical) lumen 124 that is not within inflation chamber 122. In transverse sectional view, the inflation chamber 122 has the appearance of a torus.

This substantially "cylindrical" shape does not generally decrease from the proximal portion towards the distal portion of the balloon as recited in claims 1, 21, 23, and 37. Therefore, it is respectfully submitted that claims 1, 21, 23, and 37 are patentably distinguishable from Kieturakis and the rejection of the Official Action has been overcome. Since claims 4-6, 8-10, 12-16, 20, 24-26, 30, 31 and 39 depend directly or indirectly from claims 1, 21, 23 or 37, it is respectfully submitted that the rejection of these claims have been overcome as well.

The Official Action also rejected claims 1-6, 8-11, 20, 21, 23-27, 30, 31, 37 and 38 under 35 U.S.C. § 102(e) as being anticipated by Kieturakis et al. (U.S. Patent No. 5, 836,961). According to the Official Action, Kieturakis et al. discloses an apparatus comprising a cannula, an inflatable balloon, a lumen for inflation and a coupling structure.

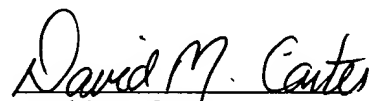
However, Kieturakis et al. does not disclose every aspect as recited in claims 1, 21, 23, or 37. Kieturakis et al. discloses a variety of different shaped balloons including the manta ray shaped balloon of FIG. 40 relied upon by the Official Action (see column 16, lines 66-67). Further review of Kieturakis et al. reveals other balloons including the pear-shaped balloon of FIG. 5 (see column 7, lines 14-16) as well as the similarly pear-shaped configurations illustrated in FIGS. 25 and 37. As discussed above, claims 1, 21, 23 and 37 define the balloon as tapering in size from the proximal end of the balloon towards the distal end of the balloon. Kieturakis et al. does not teach nor suggest this structure as defined in claims 1, 21, 23, or 37. Therefore, it is respectfully claims 1, 21, 23 and 37 are patentably distinguishable from Kieturakis et al. and the rejection of the Official Action has been overcome. Since claims 2-6, 8-11, 20, 21, 24-27, 30, 31

and 38 depend directly or indirectly from independent claims 1, 21, 23 or 37, it is respectfully submitted that the rejection of these claims have been overcome as well.

Additionally, applicants have added new claims 43-45. It is respectfully submitted that no new matter has been added and claims 43-45 are patentable to the applicants over the prior art.

The Examiner's approval of the proposed changes is respectfully requested. It is respectfully submitted that in view of the amendments and remarks the claims of the application are now in a condition for allowance. The Examiner is urged to contact the applicant's attorney at the number below to expedite prosecution of the application.

Respectfully submitted,



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**“Version with Markings to Show Changes Made”**

43. (New) An apparatus for dissecting tissue to facilitate a laparoscopic surgical procedure in an anatomical region of a patient's body, the apparatus comprising:

(a) a balloon being inflatable to a shape suitable for the laparoscopic surgical procedure and the anatomical region of the patient's body in which the balloon is to be used, the balloon, when inflated, having a cylindrical non-tapered proximal portion and a tapered distal portion; and

(b) a lumen which provides access to the interior of the inflatable balloon for inflating the inflatable balloon with a fluid.

44. (New) The apparatus of claim 43 wherein the balloon when deflated has margins which are gathered toward the center of the balloon.

45. (New) The apparatus of claim 44 wherein a portion of the balloon when deflated is inverted into another portion of itself to reduce the length of the balloon.